

Appendix **F**

Passenger Rights Statement

Passenger Rights During Customs Border Searches

- **Passengers entering the United States are protected against unreasonable search and seizure by the Fourth Amendment. Due to the government's interest in protecting national security and in preventing the importation of illegal contraband (including narcotics and controlled substances, and undeclared merchandise on which duty is owed), and due to the Supreme Court's determination that passengers entering into the country have a decreased expectation of privacy, the following is considered reasonable:**
 - **Searches may be conducted without a warrant or probable cause;**
 - **A passenger's luggage (including purses, backpacks, etc.) and outer garments (including coat, jacket, shoes, etc.) may be searched without any degree of suspicion;**
 - **A patdown search may be conducted based upon nothing more than entry into the United States;**
 - **A more intrusive search must be based upon "reasonable suspicion" (reasonable suspicion must be based upon articulable facts, and must be focused on the portion of the body or clothing to be searched);**
 - **If Customs officers have reasonable suspicion to believe a passenger has contraband concealed within his/her body, the passenger may be transported to a medical facility for a search by medical personnel;**
 - **Customs officers cannot detain someone indefinitely. Some courts have required Customs officers to notify the U.S. Attorney and seek a judicial determination within 24 hours that reasonable suspicion exists for continued detention of the person (some courts require notification after 48 hours, and some have no pre-set time limit).**

- **Under the Fifth Amendment, passengers are entitled to equal protection under the laws and it is a violation of their rights to be searched on any discriminatory basis (e.g., race, gender, or national origin). Consideration of citizenship or a travel itinerary that includes a narcotics source or transit country is not discriminatory.**
- **Passengers are entitled to the Miranda warning and all rights discussed in such warning, including the right to counsel, but only upon an arrest or during a "custodial interrogation." For Customs, such interrogations are those in which the search is more intrusive than a patdown and the questioning goes beyond that for routine Customs examination.**